In the High Court of Punjab and Haryana at Chandigarh

ITA No. 363 of 2007
Date of decision: November 22, 2007

Commissioner of Income Tax, Jalandhar-II, Jalandhar

---Petitioner

Vs.

Dera Baba Karam Singh Hoti Mardanwala

---Respondent

Coram: **HON'BLE MR. JUSTICE M.M.KUMAR**
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr.Sanjiv Bansal, Advocate,
for the appellant.

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M.M.KUMAR, J.

This order shall disposed of ITA Nos. 363, 364, 365, 366 and 369 of 2007. All these appeals have been filed under Section 260A of the Income Tax Act, 1961 (for brevity 'the Act') against the consolidated order dated 31.1.2007 (A-3)passed by the Income Tax Appellate Tribunal, Amritsar (for brevity 'the Tribunal'). List of all these appeals along with related number of the appeal before the Tribunal is as under:-

	Tribunal
ITA No. 363/2007	ITA No.316(ASR /2005) Asstt, Year 2001-02 Dated 31.1.2007
ITA No. 364/2007	ITA No.318 (ASR/2005) Asstt, Year 2002-03 Dated 31.1.2007
ITA No. 365/2007	ITA No. 319 (ASR/2005) Asstt, Year 2003-04 Dated 31.1.2007
ITA No. 366/2007	ITA No. 313 (ASR/2005) Asstt, Year 1999-2000 Dated 31.1.2007

ITA No. 369/2007 ITA No. 311(ASR/2005)
Asstt, Year 1998-99
Dated 31.1.2007

The revenue has claimed the following substantial question of law in these appeals:-

> "That on the fact and in the circumstances of the case, the ITAT is not right in holding that the assessee was justified in declaring its income from interest on FDRs on a cash basis when the evidence clearly show that it has been accounted on a mercantile basis."

The Tribunal has categorically held that the the un-rebutted case of the assessee throughout has been that they are following the cash system of accounting for the interest income earned from the bank and according to Section 145 (1) of the Act, the income chargeable under the head 'profits and gains of business or profession' or ' income from other sources' is required to be computed in accordance with the method of accounting regularly employed by the assessee. Once it has been held that the assessee has been regularly following the cash system of accounting for the interest income earned from the bank, there is no room left for us to conclude that the revenue was entitled to compel the assessee to follow the mercantile system of accounting. Therefore, we find that no question of law, much less the substantial question of law, would arise for our

determination.

In view of the above, these appeals fail and the same are dismissed accordingly.

(M.M.KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

NOVEMBER 22, 2007
paramjit